

ESTTA Tracking number: **ESTTA653623**

Filing date: **02/02/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Sunday Afternoons, Inc.
Granted to Date of previous extension	02/04/2015
Address	716 S. Pacific Highway Talent, OR 97540 UNITED STATES
Attorney information	B. Anna McCoy Alleman Hall McCoy Russell & Tuttle LLP 806 SW Broadway, Suite 600 Portland, OR 97205 UNITED STATES mccoy@ahmrt.com, harnett@ahmrt.com, saing@ahmrt.com, gladwin@ahmrt.com, mercer@ahmrt.com Phone:503-459-4141

Applicant Information

Application No	86281394	Publication date	10/07/2014
Opposition Filing Date	02/02/2015	Opposition Period Ends	02/04/2015
Applicants	<p>Abraham, Sumner J. 5974 Broken Bow Lane Port Orange, FL 32127 UNITED STATES</p> <p>Abraham, Carolyn D. 5974 Broken Bow Lane Port Orange, FL 32127 UNITED STATES</p>		

Goods/Services Affected by Opposition

Class 025. First Use: 2013/03/23 First Use In Commerce: 2014/05/01
All goods and services in the class are opposed, namely: Hats; Shorts; Sweat pants; Sweat-shirts;T-shirts

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	common-law basis for opposition

Mark Cited by Opposer as Basis for Opposition

U.S. Registration	2198069	Application Date	08/26/1997
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No.			
Registration Date	10/20/1998	Foreign Priority Date	NONE
Word Mark	SUNDAY AFTERNOONS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1992/01/01 First Use In Commerce: 1992/01/01 hats		

Attachments	Notice of Opposition (for filing) 2-2-2015.pdf(42135 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/B. Anna McCoy/
Name	B. Anna McCoy
Date	02/02/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Sunday Afternoons, Inc.,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Sumner J. Abraham)	
Carolyn D. Abraham,)	Re App. Ser. No. 86/281,394
)	Mark: Sunday Nite
Applicant.)	
_____)	

Commissioner for Trademarks
Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

In the matter of the application of Sumner J. Abraham and Carolyn D. Abraham (“Applicants”), for registration of the mark **Sunday Nite**, Application Serial No. 86/281,394, published in the Official Gazette on October 7, 2014, Sunday Afternoons, Inc. (“Opposer”), a corporation organized and existing under the laws of the State of Oregon, with its principal place of business at 716 South Pacific Highway, Talent, Oregon 97540, believes that it will be damaged by registration of the mark shown in Serial No. 86/281,394 and hereby opposes registration.

The grounds for opposition are as follows:

1. Opposer is a corporation, doing business as Sunday Afternoons, Inc., organized and existing under the laws of the State of Oregon, with its principal place of business at 716 South Pacific Highway, Talent, Oregon 97540.

2. Opposer has been and continues to be engaged in the business of manufacturing and selling headwear, apparel, and related products and services throughout the United States and abroad under the mark SUNDAY AFTERNOONS (the “SUNDAY AFTERNOONS Mark”).

3. Since at least as early as 1992, Opposer has used and continues to use in interstate commerce the SUNDAY AFTERNOONS Mark to identify Opposer’s goods and services.

4. Opposer is the owner of the following United States trademark registration for its SUNDAY AFTERNOONS Mark: U.S. Reg. No. 2,198,069 registered on October 20, 1998, in International Class 025.

5. Opposer also has common law rights for the SUNDAY AFTERNOONS Mark for use in connection with headwear and apparel products and related goods and services, including but not limited to caps and hats, shirts, tee shirts, pants and shorts, skirts, neckwear, and related accessories and services.

6. Opposer has used and continues to use the SUNDAY AFTERNOONS Mark, and the goods and services in connection therewith have been popular and the subject of significant advertising and promotional activities.

7. The use of the SUNDAY AFTERNOONS Mark has been valid and continuous since the dates of first use and Opposer has not abandoned the SUNDAY AFTERNOONS Mark. The SUNDAY AFTERNOONS Mark is symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. The SUNDAY AFTERNOONS Mark identifies and distinguishes Opposer’s goods and services from the goods and services of others, and identifies the source and origin thereof to both the trade and the public.

8. Notwithstanding Opposer's rights in and to its SUNDAY AFTERNOONS Mark, Applicant, on May 14, 2014, filed a use-based application for registration of the mark **Sunday Nite** ("Applicant's Mark"). Applicant's application was given Serial No. 86/281,394 and was published for opposition in the Official Gazette on October 7, 2014.

9. The published application for the mark **Sunday Nite** includes the following goods: hats; shorts; sweat pants; sweatshirts; t-shirts in International Class 025.

10. Applicant claims a date of first use of March 23, 2013, and claims a date of first use in interstate commerce of May 1, 2014.

11. Opposer's first use of the SUNDAY AFTERNOONS Mark is earlier than Applicant's date of first use and date of first use in interstate commerce.

12. Applicant's filing date is subsequent to Opposer's filing date for the SUNDAY AFTERNOONS Mark.

13. Applicant's applied-for goods are the same as and closely related to the goods which Opposer offers under the SUNDAY AFTERNOONS Mark in U.S. commerce.

14. Applicant's Mark **Sunday Nite** is substantially similar to Opposer's SUNDAY AFTERNOONS Mark, sharing the same prominent wording SUNDAY and having a confusingly similar overall impression.

15. If Applicant registers and uses its mark for the applied-for goods in the U.S., it is likely to cause confusion, mistake and deception among consumers regarding the source of Applicant's goods. Registration of Applicant's Mark may damage the goodwill and consumer recognition that Opposer has built up in its SUNDAY AFTERNOONS Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark, and prays that registration be denied.

Opposer authorizes the Commissioner for Trademarks to charge the fee for filing this Notice of Opposition, or any other additional fees that may be due, to Deposit Account 503397.

DATED this 2nd day of February 2015.

Respectfully submitted,

Alleman Hall McCoy Russell & Tuttle LLP



B. Anna McCoy
Attorney for Opposer
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Portland, Oregon 97204
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Facsimile: (503) 459-4142

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served by First Class Mail upon Applicant at the address of record below on this 2nd day of February 2015:

SUMNER J. ABRAHAM
CAROLYN D. ABRAHAM
5974 BROKEN BOW LN
PORT ORANGE, FLORIDA 32127-7580
UNITED STATES

A handwritten signature in cursive script, appearing to read "B. Anna McCoy", is written in black ink.

B. Anna McCoy
Attorney for Opposer